

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

CHERYL AVERILL,)
)
Plaintiff,)
)
 v.) **No. 2:17-cv-00287-JDL**
JOSEPH J. FIANDACA, JR.,)
)
Defendant.)

**ORDER ACCEPTING THE RECOMMENDED DECISION OF THE
MAGISTRATE JUDGE**

The Plaintiff's Second Motion to Amend Scheduling Order and Motion to Remand (ECF No. 13), seeks the amendment of the court's scheduling order to the extent that it identified the court's jurisdiction as "federal question" jurisdiction under 42 U.S.C. § 1331; urges the court to remand the case to state court; and seeks an award of fees and costs based on this action having been improvidently removed by the Defendant. The United States Magistrate Judge filed his Recommended Decision (ECF No. 21) with the court on October 5, 2017, pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b). The Recommended Decision recommends that the court remand the case to state court, but deny the requested fees and costs.

The Plaintiff filed a Motion for Reconsideration (ECF No. 22) and an Objection to the Recommended Decision (ECF No. 23) on October 19, 2017. The United States Magistrate Judge filed his order on Plaintiff's Motion for Reconsideration with the court on November 29, 2017 (ECF No. 24), denying the requested reconsideration.

Plaintiff then submitted her Second Objection to the Magistrate Judge's Recommended Decision to Deny Attorney Fees on December 13, 2017 (ECF No. 25).

I have reviewed and considered both the Magistrate Judge's Recommended Decision, as well as his Order on Plaintiff's Motion for Reconsideration, together with the entire record, and have made a de novo determination of all matters adjudicated by the Recommended Decision and Order. I concur with the Magistrate Judge's conclusions as set forth in his Recommended Decision and Order, and I determine that no further proceeding is necessary.

It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge (ECF No. 21) is hereby **ACCEPTED**. I **GRANT IN PART** Plaintiff's Second Motion to Amend Scheduling Order and Motion to Remand to State Court (ECF No. 13), and order that this action be remanded to state court. I **DENY IN PART** Plaintiff's Second Motion to Amend Scheduling Order and Motion to Remand to State Court (ECF No. 13) insofar as it seeks an award of fees and costs.

SO ORDERED.

Dated this the 3rd day of January 2018.

/s/ Jon D. Levy
U.S. DISTRICT JUDGE